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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,526	12/10/2001	Albert Dimberger	16616-6	7663

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 06/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/016,526

Applicant(s)

DIRNBERGER ET AL.

Examiner

Thomas Y Ho

Art Unit

3677

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 29 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments against the cited references of Drouin in view of Ostdiek are not persuasive. Applicant relies heavily on functional language in the claims, and these are not given patentable weight because most do not further define the structure. Only structural limitations are given weight. For example, the limitation "a blocking and release unit" describes a structural element whereas the limitation "which in a blocking state blocks a locked door lock of an electrical appliance and in a release state..." is purely functional and has no bearing on the structure of the blocking and release unit. Applicant argues that the claimed invention blocks an already locked door lock, and not a door element, as shown in Drouin. The examiner disagrees because if applicant does not further define the actual relationship/structure of the door lock in the claim, then the element engaged in Drouin on the door can be a door lock. Furthermore, the limitations "enables unlocking" in claim 1 and "for affecting" in claim 11 are vague and Drouin enables unlocking by moving into a release position which is caused by another solenoid. Applicant also argues that the teaching of Ostdiek destroys the base reference because Drouin discloses that the lock will remain locked upon power failure, while Ostdiek discloses that the lock will be unlocked upon power failure. Applicant is directed to the fact that Drouin discloses the the lock will remain locked upon power failure, to solve the problem of accidental opening of the latch upon power failure, while the oven is still too hot (col.1, ln.30-37). However, Drouin does also provide for unlocking upon decrease of temperature. Ostdiek also teaches that the latch will REMAIN locked upon power failure (col.9, ln.10-20) which is in line with Drouin, and that upon the proper safety conditions being reached, then the latch will open. Ostdiek does not teach the immediate opening of the latch upon power failure while conditions are still unsafe, therefore, Ostdiek does not teach against Drouin. Therefore, the rejections are appropriate and the rejection of the claims stand as described in the previous final rejection.



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